

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 DOUGLAS CHRISTOPHER RICCIO,

4 Plaintiff

5 v.

6 MINERAL COUNTY SHERIFF, et al.

7 Defendants

Case No.: 3:22-cv-00397-ART-CSD

**Report & Recommendation of
United States Magistrate Judge**

8 This Report and Recommendation is made to the Honorable Anne R. Traum, United
9 States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28
10 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

11 Plaintiff filed an application to proceed *in forma pauperis* (IFP) and pro se complaint.
12 (ECF Nos. 1, 1-1.) The court issued an order granting Plaintiff's IFP application. The court also
13 screened Plaintiff's complaint. The complaint named the Mineral County Sheriff and alleged
14 Plaintiff's Fourth Amendment rights were violated on January 24, 2021, when the undersheriff
15 and a deputy came to a property and entered a vehicle and removed property without a warrant,
16 and then slashed the tires and tried to get inside to search the house without a warrant.

17 The court advised Plaintiff that he alleged a colorable Fourth Amendment claim, but he
18 did not identify the defendants, *i.e.*, the undersheriff and deputy he claimed were involved in the
19 violation of his rights. As such, the court dismissed the complaint with leave to amend so
20 Plaintiff could attempt to name the appropriate defendants. (ECF No. 3.)

21 Plaintiff subsequently filed a single page document titled "Amended Complaint," listing
22 the case number and Undersheriff Bill Ferguson and Deputy Ray Gulcynski. There was no other
23 information in the "Amended Complaint."

1 The court advised Plaintiff that an amended complaint must be complete in and of itself
2 without referring to or incorporating by reference any previously filed complaint; as such,
3 Plaintiff's "Amended Complaint," which lists only the case number and two defendants without
4 any substantive allegations, was insufficient. The court dismissed Plaintiff's "Amended
5 Complaint" with leave to amend. The court gave Plaintiff until March 9, 2023, to file a second
6 amended complaint, which must be complete in and of itself: it must name the defendants and
7 include the substantive factual allegations concerning how Plaintiff contends his rights were
8 violated. Plaintiff was cautioned that a failure to timely file a second amended complaint would
9 result in dismissal of this action without prejudice. (ECF No. 7.)

10 To date, Plaintiff has not filed a second amended complaint. Therefore, this action should
11 be dismissed without prejudice, and this case should be administratively closed.

12 **RECOMMENDATION**

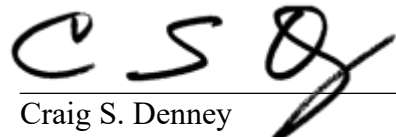
13 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING**
14 this action **WITHOUT PREJUDICE** and administratively closing this case.

15 The Plaintiff should be aware of the following:

16 1. Plaintiff may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to
17 this Report and Recommendation within fourteen days of being served with a copy of the Report
18 and Recommendation. These objections should be titled "Objections to Magistrate Judge's
19 Report and Recommendation" and should be accompanied by points and authorities for
20 consideration by the district judge.

1 2. That this Report and Recommendation is not an appealable order and that any notice of
2 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed
3 until entry of judgment by the district court.

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5 Dated: March 28, 2023

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7 Craig S. Denney
8 United States Magistrate Judge
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